23d Congress,
1st Session.

IN SENATE OF THE UNITED STATES.

FEBRUARY 5, 1834.

Read, and ordered to be printed, and that 6,000 additional copies be furnished for the use of the Senate.

MR. WEBSTER, from the Committee on Finance, (which consists of Messrs. WEBSTER, TYLER, EWING, MANGUM, and WILKINS,) made the following

REPORT:

The Committee on Finance, to whom has been referred the report of the Secretary of the Treasury of the 3d of December, 1833, on the removal of the public deposites from the Bank of the United States, and a resolution, submitted to the Senate by an honorable member from Kentucky, declaring that the reasons assigned by the Secretary for the removal of the said deposites are unsatisfactory and insufficient, have agreed on the following report:

The act incorporating the Bank of the United States, as is justly remarked by the Secretary, is a contract, containing stipulations on the part of the Government, and on the part of the corporation, entered into for full and adequate consideration.

The Government became party to this contract by granting the charter, and the stockholders by accepting it. "In consideration," says the charter, "of the exclusive privileges and benefits conferred by this act on the said bank, the president and directors thereof shall pay to the United States, out of the corporate funds thereof, one million and five hundred thousand dollars, in three equal payments;" and, in another section, it declares that "during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place within the United States or the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions, or claiming allowance on account of difference of exchange; and shall do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law."

The section immediately following this provision, is in these words: "*And be it further enacted*, That the deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary

of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons for such order or direction."

It is not to be denied or doubted that this custody of the public deposites was one of the "*benefits*" conferred on the bank by the charter, in consideration of the money paid, and the services undertaken to be performed, by he bank to the Government; and to this custody the bank has a just right, unless such causes have arisen as may have justified the Secretary in giving an order and direction for changing that custody. Any order or direction, therefore, issued under the provisions of this law, necessarily involves a consideration of the just extent of the Secretary's power, and of the rights of the bank.

But Congress, in making this provision, unquestionably had in view the safety of the public funds, and certain important financial objects, as well as the making of a just consideration to the bank for the sum paid, and the services undertaken by it; and with this view, also, it has expressed its will, that the deposites shall continue to be made in the bank until good cause shall arise for ordering otherwise. Of this good cause, the Secretary of the Treasury, in the first instance, and Congress, ultimately and conclusively, is onstituted the judge. Every order, therefore, of the Secretary for chang- ng the deposites presents, for the examination of Congress, a question of general political propriety and expediency, as well as a question of right and obligation to the bank.

These questions may be considered together. They are intimately connected; because the right of the bank to retain the deposites, and to enjoy the advantages to be derived therefrom, cannot be denied, unless a case is shown to have arisen within the just power of removal vested in the Secretary, and which made it his duty to exercise that power. The Secretary is only to remove the deposites for reasons. Of these reasons he is to give an account to Congress. If they be insufficient to justify the removal, the bank has a right to a return of the deposites, and the country has a right, also, to expect that, in that case, the public treasure will be restored to its former place of safety.

The Secretary having removed the deposites, and having reported his reasons to both Houses, the whole subject is now before Congress by way of appeal from his decision; and the question is, whether that decision ought to stand, or ought to be reversed.

The power of the Secretary, under the law, is evidently but provisional. It is a power which he may exercise in the first instance; but the propriety of his conduct, in every instance of its exercise, is ultimately referred to the wisdom of Congress, and by Congress it must be judged. He is authorized to do the act, but Congress is to examine it when done, and to confirm or reverse it. The Secretary may change the deposites; but when changed, Congress is to decide on the causes of such change, with authority either to sanction the removal, or to restore the deposites, according to its own judgment of right and expediency.

In order to decide whether the act of the Secretary ought to be confirmed, it is requisite, in the first place, to form a just opinion of the true extent of his power under the law; and, in the second place, to consider the validity of the reasons which he has speciall assigned for the exercise of that power in the present case.

The opinion of the Secretary is, that his power over the deposites, so far as respects the rights of the bank, is not limited to any particular contingencies, but is absolute and unconditional. If it be absolute and unconditional so far as respects the rights of the bank, it must be absolute and unconditional in all other respects; because it is obvious if there be any limitation, that limitation is imposed as much for the benefit of the bank as for the security of the country. The bank has contracted for the keeping of the public moneys, and paid for it, as for a privilege or benefit. It has agreed, at the same time, that the Secretary shall possess the power of removal; but, then, it is also agreed, that whenever this power is exercised, the reasons therefor shall be reported to Congress; Congress being thus constituted the final judge as well of the rights of the bank, in this particular, as of the good of the country. So that if the Secretary's power be in truth absolute and unconditional, it restrains Congress from judging whether the public good is injured by the removal, just as much as it restrains it from judging whether the rights of the bank are injured by the removal; because the limitation, if any, is equally for the security of the bank and of the public.

If the bank be interested in retaining the deposites, then it is interested in the truth or falsity, in the sufficiency or insufficiency, of the reasons given for their removal. Especially is it so interested, since these reasons are to be rendered to a tribunal which is to judge over the Secretary, and may form a different opinion on the validity of these reasons, and may reverse his decision. It clearly has an interest in retaining the deposites, and therefore is as clearly concerned in the reasons which the Secretary may give for their removal. And as he is bound to give reasons, this very circumstance shows that his authority is not absolute and unconditional. Because, how can an appeal be given from the decision of an absolute power; and how can such a power be called on to give reasons for any instance of its exercise? If it be absolute, its only reason is a reference to its own will.

The committee think, therefore, that no absolute and unconditional power was conferred on the Secretary; that no authority was given him by which he could deprive the bank of the custody of the public moneys, without reason; and that therefore his opinion is not to be admitted that, in no event, can any order for removing the deposites impair the right secured to the bank by the charter. If removed without good cause, the committee think the removal does impair the rights of the bank

But the opinion of the Secretary, as to his own powers, is hardly more limited in respect to the Government and the country, than in regard to the rights of the bank.

His opinion is, that it is his duty, and within his authority, in this view, also, to withdraw the deposites of the public money from the bank whenever such a change would, in any degree, promote the public interest. "The safety of the deposites," he says, "the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

By the general interest and convenience of the people, the Secretary can only mean his own sense of that interest and convenience, be cause they are no otherwise to be ascertained than by his own judgment.

The Secretary's construction of the law, is, therefore, that he has power to remove the deposites whenever, for any reason, he thinks the public

In this interpretation of the design and object of the law, and this broad construction of the Secretary's power, the committee do not concur.

Although the power of the Secretary is not restricted by any express words or terms, nor by any particular occasions for its exercise specifically and expressly designated or prescribed by the law, yet it is not to be admitted, as the committee think, that this power is to be exercised capriciously, or in an arbitrary manner, or for loose or conjectural reasons, or on any idea of an unlimited discretion vested in the Secretary to judge on the general question of the public welfare; or, indeed, on any other grounds than those of necessity, or plain and manifest expediency, directly connected with the subject over which the power exists.

The keeping of the public money is not a matter which is left, or was intended to be left, at the will of the Secretary, or any other officer of the Government. This public money has a place fixed by law, and settled by contract; and this place is the Bank of the United States. In this place it is to remain until some event occur requiring its removal. To remove it, therefore, from this place, without the occurrence of just cause, is to thwart the end and design of the law, defeat the will of Congress, and violate the contract into which the Government has solemnly entered.

It is fit to be observed that no other law confers on the Secretary such a wide discretion over the public interests in regard to any subject, or gives him a power to act on the rights of others, or on the rights of the public, in any part of his official duties, with so unlimited an authority as is here asserted. Every where else, he appears in the character of a limited and restricted agent. He is the financial officer of the Government; he is the head of the Department of the Treasury. His duty is, to report annually to Congress the state of the finances, and to communicate to either House, when requested, any information respecting the Treasury; and he is to superintend the collection of the revenue. But he has no authority over the circulating medium of the country, either metallic or paper; nor has he the control of the national currency. It is no part of his duty either to contract or expand the circulation of bank paper, nor in any other way to exercise a general superintendence over the money system of the country. These general interests of the Government and the people are not confided to his hands by any of the laws which created his office, and have prescribed his duties; and the committee are of opinion that the charter of the bank no more intended to give such a wide scope to the Secretary in regard to the deposites, than other laws intended to give him the same wide scope in respect to other duties of his office. No intimation of such intention is found either in the charter itself, or in any of the legislative debates which took place in both Houses when the bank was established; or in the discussions which have been had on the various occasions which have been more recently presented for calling forth the sentiment of Congress. In none of these sources is there to be found any proof that the Legislature has delegated, or intended to delegate, this extraordinary power of judging of the general interest of the people to the Secretary of the Treasury. Such a power, did he possess it, would necessarily make him the general superintendent of all the proceedings of the bank; because it would enable him to compel the bank to conform all its operations to his pleasure, under penalty of suffering a removal of the public moneys. This would be little less than placing all the substantial power of managing the bank in his hands. But he is not by law its manager, nor one of its managers; nor has he any right, in any form,

to interfere in its management. On the contrary, the very language of the charter rejects all idea of such general supervision over its concerns by him, or any other officer of Government. That language is, that "*for the management of the affairs of the corporation* there shall be twenty-five directors annually chosen;" and, under the restrictions contained in the charter, these directors are entrusted with the whole general business of the bank, subject, of course, to all the provisions of the charter and the by-laws; subject, too, always to the inspection and examination of either House of Congress; subject always to regular inquiry and trial, and bound always to communicate to the head of the Treasury Department, on request, statements of its amount of stock, debts due, moneys deposited, notes in circulation, and specie on hand.

Under these restrictions, the establishment of its offices, and the appointment of its officers; the amount of its discounts, and every thing respecting those discounts; its purchases and sales of exchange, and all other concerns of the institution, are to be conducted and managed by the directors. There is nothing in the charter giving the slightest authority to the Secretary to decide, as between the bank on the one hand, and the Government or the people on the other, whether the general management of the directors is wise or unwise, or whether, in regard to matters not connected with the deposites, it has or has not violated the conditions of its charter. The statement which the bank is bound to make to the Secretary, he may lay before Congress; and he is doubtless, bound by his official duty, to communicate to Congress any other information in his possession, tending, in his judgment, to show that the bank had disregarded its charter, or failed to fulfil all or any of its duties. But here his authority, so far as it regards the general course and operations of the bank, ends. It is then for Congress to act, if it see occasion, and to adopt the regular remedies for any evils which it may suppose to exist. But it transcends the power of Congress itself to pronounce the charter violated, without hearing, without trial, without judgment; far less is any such power of pronouncing final judgment confided to the Secretary. His power simply is, that in regard to the deposites of the public money, he is to judge, in the first instance, whether just cause has arisen for their removal.

The Secretary seems to suppose, indeed the very basis of his argument assumes, that the law has confided to him a general guardianship over the public welfare, so far as that welfare is in any way connected with the bank, or liable to be affected by its proceedings; and that he holds the power of removing the deposites as the means, or instrument, by which he is to enforce his own opinions respecting that welfare. The committee do not adopt this opinion. They think that if such had been the design of the law, its provisions would have been very different from those which it does actually contain.

If such general guardianship had been intended to be conferred on the Secretary, it is reasonable to believe that he would have been vested with powers more suitable to such a high trust. If he had been made, or intended to be made, general inspector, or superintendent, other authority than merely that of removing the deposites would have been given him, for this plain reasons, that the Government and the country have interests of much magnitude connected with the bank, besides the deposites of the public moneys in its vaults, and to which interests, if endangered, the removal of the deposites would bring no security.

The Government is proprietor of seven millions of the stock of the bank; and yet no authority is given to the Secretary to sell this stock under any circumstances whatever, or in any other way to interfere with it.

The bills and notes of the bank, too, are made receivable in all payments to the United States, until Congress shall otherwise order; and no power is given to the Secretary to prevent their being so received, either during the session of Congress or in its recess, however the credit of these bills and notes might become depreciated.

How is it possible to conceive that, if Congress intended to give to the Secretary a general right to judge of the operations and proceedings of the bank, and a power, of course, to declare when it had violated its duty, and was no longer trustworthy, it should yet leave him under an absolute obligation to receive its bills and notes in all payments to the Treasury, though they might have lost all credit; and place no means in his hands to execute his high authority of superintendent, except the mere power of removal?

Wherever it is clear that Congress has given the Secretary a power, it has given him the means of informing his judgment as to the propriety of exercising that power. He has power to remove the deposites; and ample means are afforded him by which he may learn, from time to time, whether those deposites are safe. For this purpose, it is expressly made the duty of the bank to furnish him, so often as he shall require, if not oftener than once a week, with statements of the amount of the capital stock of the corporation, of the debts due to it, of the moneys deposited in it, of its notes in circulation, and specie on hand; and he has a right to inspect the general accounts, in the books of the bank, relating to this statement. This statement enables him to judge of the solvency and stability of the bank, and of the safety of the public money deposited in it. Here, then, is a power, and all appropriate means given for the just and enlightened exercise of that power. Confined to the deposites, the power is accompanied with all rational auxiliaries and attendants.

But for the depreciation of the bills of the bank, should that happen, and for other cases of maladministration, Congress has provided just and appropriate remedies, to be applied by itself or others, in exclusion of the Secretary. For redress of these evils, no power is given to him.

For the security of the public interest, the law reserves a right to either House of Congress to inquire, at all times, into the proceedings of the bank, and if, on such inquiry, it appears in any respect to have violated its charter, Congress may bring it to trial and judgment. Power is given to the President, also, to institute judicial proceedings, if he shall have reason to believe that any such violation has taken place. But no such power is given to the Secretary.

The proposition, then, cannot be maintained, that Congress has relied, for the security of the public interests, and the preservation of the general welfare, so far as it is connected with the bank, on a general discretion reposed in the Secretary: for two reasons, first, because it has not given him the appropriate powers of remedy in the most important instances; and, secondly, because it has, in those instances, either expressly reserved those powers to itself, or expressly conferred them on the President.

If the Secretary cannot prevent the notes of the bank from being received at the custom houses and the land offices, even after they should be discredited; if he have no power to touch, in any way, the seven millions of stock belonging to the Government; if the power of examination into the pro-

ceedings of the bank be given, not to him, but to either House of Congress; if he have no power, but Congress and the President, each, has power to direct a legal investigation into the conduct of the bank; how can it possibly be maintained that a general inspection and guardianship over the public welfare, so far as it is connected with the bank, is confided to him; and that his authority to remove the deposites was given, not to protect the deposites themselves, and secure their proper use, but to enable him to enforce upon the bank, under penalty of their removal, such a course of management as his sense of the public interest, and of the convenience of the people, may require? Such a construction would give the law a strange and an undeserved character. It would convert the power of removal, intended for remedy and redress, into a mere instrument of punishment; and it would authorize the infliction of that punishment without hearing or trial, in the very cases in which the law yet says that, if violation of duty be charged, the charge shall be heard and tried before judgment is pronounced; and the duty of preferring this charge, and of prosecuting it to judgment, is given, not to the Secretary, but to Congress and to the President.

The contingent power given to the Secretary to remove the deposites evidently shows that Congress contemplated the possibility of the happening of some sudden evil for which either no other remedy was provided, or none which could be applied with sufficient promptitude; and for which evil removal would be a just and appropriate remedy. The remedy prescribed, then, teaches us the nature of the evils which were apprehended. We can readily understand that threatened danger to the funds was one, and probably the chief of those evils; because change into other hands is the ready and appropriate measure which would rationally suggest itself to all minds as the proper security against such danger; and change is the remedy actually prescribed. Neglect to transfer the deposites from one place to another, as the exigencies of Government might require, and thereby to furnish those facilities of exchange which the charter demands of the bank without commission and without charge, is another evil for which, should it happen, the remedy would naturally be the withdrawing of the funds, and the placing of them in their former custody, so that they could be transferred or exchanged by the Treasury itself.

But who can see any connexion or relation, such as ordinarily exists between an evil apprehended and a remedy proposed—between such an evil as a supposed over-discount, for instance, by the bank at one time, or an under-discount at another, and the abrupt removal of all the public deposites? And if no one can see the connexion, how can it be supposed that, in giving the power of removal as a remedy, Congress had in view any such evil?

A question may arise between the Government and the bank respecting the right of the parties to the sum of one hundred and fifty thousand dollars, as in the case of the French bill.

It is a question on which different opinions may be entertained, and which is, in its nature, fit for judicial decision. Does any man imagine that such a case as this was in the eye of Congress when they granted the power of withdrawing the whole public treasure from the bank? Can it be for one moment maintained, that Congress intended that, in such a case, the Secretary should compel the bank to adopt his own opinion, by the exercise of a power, the very exertion of which deranges the currency, interferes with the industry of the people, and, under some circumstances, would hazard the safety of the whole revenue?

The committee think it cannot admit of rational doubt, that if Congress had intended to give to the Secretary any power whatever, not directly touching the deposites themselves, not only would it have specially pointed out the cases, but it would also, most assuredly, have provided a remedy more suitable for each case. The nature of the remedy, therefore, which is prescribed, clearly shows the evils intended to be provided against.

To admit that the Secretary's conduct is subject to no control but his own sense of the general interest and convenience of the people, is to acknowledge the existence, in his hands, of a discretion so broad and unlimited, that its consequences can be no less than to subject, not only all the operations of the bank and its offices, but its powers and capacties, perhaps its very existence, to his individual will. He is of opinion that the law creating it is, in many of its provisions, unconstitutional; he may not unnaturally, therefore, esteem it to be his duty to restrain and obstruct, to the utmost of his power, the operation of those provisions thus deemed by him to be unconstitutional. He is of opinion that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people. It would result from this that if, in the discharge of his official duty, he is to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the deposites. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

The power conferred on the Secretary is a trust power, and, like other trust powers, in the absence of express terms setting forth the occasions for its exercise, it is to be construed according to the subject and object of the trust. As in other cases of the deposite of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe keeping of the money. The Secretary's trust, therefore, primarily and principally, respects this safe keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund, and that is, its transfer and exchange from place to place, as the convenience of Government might require. The Secretary's trust, therefore, respects also this other object thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent, none can doubt the existence of his power. If, in truth, the money is believed to be unsafe; if, in truth, the bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund, then, certainly, it ought to be removed. But here the power must stop, or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

The charter of the bank is the law: it is the expressed will of the legislature. That will is, that the bank shall exist, with all its powers, to the end of its term. That will, too, as the committee think, is, that the public deposites shall continue in the bank so long as they are safe, and so long as the bank fulfils all its duty in regard to them. The Secretary assumes a

broader ground. He claims a right to judge of the proceedings of the bank on all subjects. Admitting the fund to be safe, and admitting that the bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposites whenever he shall form an opinion, founded on the conduct of the bank in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal. If, in his opinion, it discounts too little, or discounts too much; if it expands or contracts its circulation too fast or too slow; if its committees are not properly organized; if it claim damages on protested bills, which it ought not to claim; if, in his opinion still, it is guilty of a wrongful meddling in politics, or if it do any thing else not consistent with his sense of the public interest, he has a right to visit it with a withdrawal of the public money from its custody.

If this claim of power be admitted, it would seem to the committee to be a fair result, that the Secretary has power to withdraw the deposites for no other reason than that he differs with Congress upon its constitutional authority to create any bank, or upon the constitutionality of this particular bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges, till its term shall expire.

The committee, therefore, are of opinion that it was not the intention of the Legislature to give to the Secretary of the Treasury a general guardianship over the public interests in all matters connected with the bank; but that his power is a limited one, and is confined to the safety, and the proper management of that portion of the public interest to which it expressly relates; that is to say, to the public moneys in deposite in the bank.

But the extent of the Secretary's discretion, as asserted by himself, reaches even farther than the wide range which the committee has here described. It is not confined to the protection of all the various interests which the Government and the country have in the bank, or to a supervision and control over all the conduct of the bank, but it embraces all branches of the public interest, and touches every thing which in any way respects the good of the people. He supposes himself rightfully to possess the power of removing the deposites, whenever any causes, springing up in any part of the whole wide field of the general interest, may appear to him to call for such removal. Notwithstanding he may suppose all the great interests confided to the bank to be perfectly safe; notwithstanding he may have no occasion to complain of any part of its conduct; notwithstanding, even, it may so have demeaned itself as to have become the object of his favor and regard; yet, if his construction be admitted, he may remove the deposites simply because he may be of opinion that he might place them, with a prospect of still greater advantage, in other hands. If he be of opinion that the commerce of the country, or its manufactures, would be benefitted by withdrawing the public money from one bank and placing it in many, that would be an exercise of authority entirely within the limits which he prescribes to himself. It would be a case in which he would only follow his own sense of what the general interest and convenience of the people required. He might think, too, that by withdrawing all the public treasure from the Bank of the United States, and placing it in the hands of twenty or thirty State banks, to remain there during his pleasure, and to be drawn thence, again, at his will, he might be enabled effectually to advance certain other objects which, whatever others might think of them, he might consider to be essential to the good of the people. All this, if he be right, is within his just authority. A power,

necessarily running to this extent, is a power, in the opinion of the committee, which can never be admitted.

Having thus expressed an opinion upon the general extent of the power claimed by the Secretary, the committee proceed to consider the reasons which he has reported to Congress as the particular grounds on which the power has been exercised in the present case.

The first reason assigned by the Secretary, is the near approach of the period when the bank charter will expire. That period is the 4th of March, 1836, more than two years distant; nearly two years and a half at the time of the removal. Three sessions of Congress are, in the mean time, to be holden, and inasmuch as the Secretary himself says that "the power over the place of the deposites for the public money would seem properly to belong to the legislative department of Government," the committee think it might reasonably have been expected by him that Congress would not fail to make, in season, suitable regulations on a subject thus admitted to be within the just exercise of its authority, and properly one of its duties.

Why, then, should he not have waited till Congress had seen fit to act upon the subject, or had manifested a disposition not to act? The matter of the deposites had been before Congress last session, and Congress had then thought no provision to be, as yet, necessary. Its undoubted sense was, that the public moneys should remain where they were. This was manifested by proofs too clear to be questioned. Another session was fast approaching; and why was not the whole subject left where Congress had chosen to leave it at the end of its last session, to await the free exercise of its legislative power at this session? It might have been fit for the Executive to call the attention of Congress, at this time, to the necessity of some legal provisions respecting the future custody of the public moneys; and it would, doubtless, have been proper for Congress, without such call, to take up and consider the subject at its own suggestion; but the committee see no reason whatever, in the approaching expiration of the charter, for a change so sudden, and producing such important effects, made so long before that expiration, at a time when Congress had recently had the subject before it, and when, too, it was again about to assemble, and would naturally have reasonable and full opportunity to adopt any necessary legislative provisions.

The Secretary has stated no reason satisfactory to the committee for not deferring this important step until the meeting of Congress. He sets forth no emergency, no sudden occasion, nothing which, in their judgment, made immediate action by him necessary.

The Secretary supposes it to have been his duty to act on the belief that the bank charter would not be renewed; and he refers to recent popular elections in support of this opinion. The committee believe it altogether unusual for reasons of that kind to be assigned for public and official acts. On such subjects, opinions may be very various. Different and opposite conclusions may be drawn from the same facts by different persons. One man may think that a candidate has been elected on account of his opposition to the bank; another may see, only, that he has been chosen, notwithstanding such opposition. One may regard the opposition, or the support, of any measure, by a particular candidate, as having been, itself, a promoting cause of the success of his election; another may esteem it as a formidable objection, overcome, however, by more powerful reasons; and others, again, may be of opinion that it produced little or no effect on the one side or the other.

But if inferences, less uncertain, could be drawn from such occurrences, the committee still think, that for a public officer to presume what law the Legislature will or will not pass, respecting matters of finance, from the election of a particular person to be Chief Magistrate, implies a consequence from such election which the constitutional independence and dignity of the Legislature do not allow to be admitted.

But if for this, or other reasons, the Secretary had persuaded himself that the charter of the bank would not be renewed, still, it certainly did not follow that the deposites ought to be removed before Congress had decided on the hands into which they should be transferred, and had made suitable regulation respecting their future custody. If there were good ground for thinking that Congress would not recharter the bank, for that very reason there was equally good ground for supposing that it would make proper and seasonable provision for the keeping of the public moneys elsewhere. How could the Secretary doubt that Congress would omit to do that which he avers to be one of its appropriate duties? The question is, not what measures Congress might be expected to adopt—whether the rechartering of the bank, or what other measures; but whether it ought not to have been presumed that it would adopt some measure, and that a seasonable and proper one, according to its power and its duties; and whether, therefore, this anticipation of the action of Congress, on the eve of its session, is to be justified.

The bank charter declares that the deposites of the public money shall be made in the bank and its offices and that the bank shall continue till March, 1836. Where does the Secretary find his power to decide that the deposites shall be so made but for seventeen years from the date of the charter, instead of twenty? If he may thus withdraw the deposites two or three years before the expiration of the charter, what should restrain him from exercising the same authority five years before its expiration, or ten years? A plain and cogent necessity, the existence of a case which admits of no reasonable doubt, and which is too urgent for delay till Congress can provide for it, can alone justify an interference with the public moneys, lodged in the bank by law for the double purpose of safe keeping, and fulfilment of solemn contract.

But supposing it not reasonable for the Secretary to have expected the interposition of Congress, and admitting that he might consider the withdrawing of the deposites as an act which was to be done, at some time, by himself, how can it, nevertheless, be argued, that so early and so sudden a withdrawal was necessary? The committee can perceive no possible reason for this, in any state of facts made known to them.

The withdrawal of the money, left on deposite, from a bank whose charter is about to expire, is naturally one of the things longest postponed. It is as safe the last day of the existence of the bank, in common cases, as at any previous period. The bank expects the recal of its deposites, near the period of its expiration, and prepares itself accordingly. The operation, if made gradually, produces, when thus conducted, the least possible disturbance in the business of the community. Former experience would seem to have held out a salutary light for the guidance of the Secretary in this part of his official duty.

At the time of the expiration of the charter of the former bank, Mr. Gallatin was Secretary of the Treasury, and the public deposites were in the bank. The charter of the bank was to end on the 4th of March, 1811, and it does not appear that Mr. Gallatin thought it necessary to make any

ng on them for the common uses of Government, until late in the very month preceding the expiration of the charter. A large amount of those deposites remained, indeed, in the vaults of the bank after the charter had expired, and until they were wanted, in the general operations of the Trea sury. And why should it be otherwise? Why should that be done suddenly now, which the Secretary thinks could not be done suddenly hereafter without great inconvenience? Is it not the just inference, from his own argument, that the thing should not have been done suddenly at all? As to the idea that the credit of the paper of the bank will be depreciated near the time of the expiration of its charter, or that it would be inconvenient for it, at that time, to be called on for the deposites, the committee are utterly at loss to see the slightest foundation for such an opinion. Experience is against it; and all reason, as the committee think, is against it also. There is nothing to render it in any degree doubtful that the bills of the bank will be in as good credit the last day of its charter, and even after that time, if any shall be outstanding, as they are now; and there is as little to render it doubtful that then, as now, the bank would be competent to answer all demands upon it. In the opinion of the committee, the withdrawal of the fund was both unnecessarily early, and unnecessarily sudden. It might have been made gradual; it might have been deferred; and it might have been, and ought to have been, as the committee think, not ventured upon at all, until the attention of Congress itself had been called to the subject. The committee therefore entirely dissent from this first reason, reported by the Secretary. They see nothing which proves to them the existence of the slightest occasion for taking this important step, at the moment it was taken. So far as it depends on this reason, the committee think the removal was made without necessity, without caution or preparation, with a suddenness naturally producing mischievous consequences, and in unjustifiable anticipation of the legislation of Congress.

But the Secretary thinks there are other reasons for the removal, growing out of the manner in which the affairs of the bank have been managed, and its money applied, which would have made it his duty to withdraw the deposites at any period of the charter.

Of these reasons, thus arising from the alleged misconduct of the bank, the first is, that many important money transactions of the bank are placed under the control of a Committee of Exchange, of which committee, no one of the public directors, as they are called, is allowed to be a member, instead of being transacted by a board of seven directors.

This charge consists of two parts; first, that the discounts of bills are made by a committee, and not by a quorum of the board; second, that the public directors are not allowed to be of this committee.

First. It is not alleged that, in the discounts of bills by this committee, any indiscretion has been committed, or any loss incurred; or that, in consequence thereof, any facility to the mercantile community has been withheld, or any duty of the bank to the Government violated. The objection is, simply, that bills are discounted by a committee. Supposing this to be an irregularity, or illegality, in the proceedings of the board, how is it to be corrected by withdrawing the deposites? What connexion is there between the two things? It is not pretended that this mode of discounting bills endangered the deposites; it is not pretended that it made the bank either less able, or less willing, to perform every one of its duties to Government. How should the withdrawal of the deposites then be suggested by the dis-

able to perceive the least propriety in applying the power of removal to a proceeding of this kind, even if it were admitted to be irregular or illegal. But is the practice illegal? It is believed to be not at all unusual. It is believed to be quite common, in banks of large business, for bills of exchange, which are presented every day, and almost every hour in the day, to be discounted either by a committee of the directors, or by the president, or even other officers, acting under such general orders and instructions as the directors, at their stated meetings, prescribe. A large board of directors cannot assemble every day, perhaps not oftener than twice a week. If bills of exchange could only be discounted at these periodical meetings, the business of exchange could not go on with the promptitude and despatch so important to commercial men in such transactions.

The committee suppose the truth of these remarks will be at once admitted by all who have knowledge of business of this kind.

The general management and control, the authority of examining and supervising, of contracting or enlarging the amount of daily discounts, according to the state of the bank, and of giving every other order and direction on the subject, still remains with the directors, and is constantly exercised by them. They still manage the affairs of the bank, in the language of the charter, although they may depute to a committee the authority of inquiring and deciding upon the credit of persons whose names are on bills of exchange offered for discount, and on the rate of exchange, current at the day. The legal question would be, whether the directors, by rule or by law, may not authorize a small number of their own board to discount bills. The bank has been advised that it might rightfully do this; and if it be not clear that this opinion is right, it is certainly far from clear that it is wrong; and in this state of the question, the general practice of other banks, under similar provisions in their charters, may well relieve the directors from the imputation of intentional mismanagement.

If, in all this, the bank has violated its charter, what other banks of extensive business have not done the same thing?

But the other subject of complaint, and that which seems to be regarded as the more offensive part of this regulation, is, that the public directors, as they are called, were not allowed to be on this committee.

It may be observed, in the first place, that if the discounting of bills of exchange by a committee, instead of the whole board of directors, be illegal, it would hardly be rendered legal by placing any or all of these public directors on the committee as members. But the Secretary seems to suppose that there was some particular object in this exclusion of these directors, as if there had been something wrong to be done, and therefore secrets to be kept by this committee. It is not easy to see what foundation there can be for this opinion. All those discounts are matter of record. They appear every day in the books of the bank. Every director, on or off the committee, sees them, or may see them, at pleasure. There is no secrecy, nor any motive for secrecy, so far as this committee can perceive. Very proper causes may have existed, for aught that can be known by the Senate for the omission of these particular directors from this particular committee. Their services might have been deemed more useful in other committees; or however respectable in general character, or however useful in other parts of the direction, they may have been esteemed not so well acquainted as others with the business of foreign or domestic exchange. And even if there were, or are, other causes for the omission, such as tend

less to prove the existence of that harmony and mutual respect which it is so desirable should prevail in such a board, these causes cannot furnish any just ground for asserting, either that the business of exchange was illegally conducted, or that the constitution of the committee was proof of the existence of any motive not fit to be avowed.

But the Secretary entertains an opinion respecting the character and duties of the directors appointed by the President and Senate, in which the committee do not concur. He denominates them "public directors," "officers of the Government," &c.

By the charter of the bank there are to be twenty-five directors. Of these, twenty are to be chosen by the individual stockholders, and five appointed by the President, with the advice and consent of the Senate. As the Government owned one fifth of the stock of the bank, it was judged expedient to place in the hands of the President and Senate the appointment of one-fifth of all the directors. But they are not called public directors, nor officers of the Government, nor public agents; nor are they entitled, so far as the committee can perceive, to either of these appellations, any more than the other directors. The whole twenty-five directors are joint managers of a joint fund, each possessing precisely the same powers, and charged with the same duties as every other. They derive their appointments, it is true, from different origins, but, when appointed, their authority is the same. There is not one word in the charter intimating, in the remotest manner, that the five directors appointed by the President and Senate have any particular duty, or are the objects of any peculiar trust. The charter calls them not Government directors, not public directors, but simply the directors appointed by the President and Senate. They are placed in the direction to consult with the other directors for the common good of the bank, and to act with these others, and vote with them on all questions. They are, what the law calls them, directors of the bank, not agents of the Government. They are joint trustees with others in a joint interest. If any thing illegal or improper takes place in the board, they are bound to resist it by the duty which they owe the individual stockholders, as much as by the duty they owe the Government; because they are agents of the individual stockholders, and have the same authority to bind them by their acts as to bind the Government; and, in like manner, it is the duty of those directors who are appointed by the individual stockholders to give notice, as well to Government as to the stockholders, if any thing illegal take place, or be threatened. All those directors act and vote together on the smallest as well as on the highest occasions; and, by their joint votes, bind the corporation, and bind both the Government and individual stockholders to the extent of their respective interests in the corporation.

If the directors appointed by the President and Senate had been excluded by the charter from any part of the power exercised by the others; if it had been forbidden them to interfere, to the same extent, and with the same effect, as the rest in the common business of the bank, there might be some reason for supposing that an uncommon character—a character not so much of action as of supervision and inspection, was intended to be conferred on them. But they do interfere, and justly, in all transactions of the bank. They do vote and act on all subjects like the other directors. Being, then, possessed of this common character of directors, and enjoying all its powers the fullest extent, the committee know no form of argument by which an

uncommon and extraordinary character is to be raised by construction, and superadded to the common character of directors which thus already belongs to them.

By granting the charter, and by accepting it, the Government on the one hand, and the individual stockholders on the other, have agreed that, of the directors, as joint agents of all parties, the stockholders shall appoint twenty, and the Government five. The interest of all parties is confided to this joint agency: and any distinction in their powers, as arising from their different modes of appointment, is, in the judgment of the committee, not to be sustained. They regard such distinction as entirely inconsistent with the nature of the agency created, and as deriving not the least countenance from any thing contained in the law.

The committee, nevertheless, to avoid misapprehension, wish to repeat, that it is undoubtedly the duty of the directors appointed by the President, and of all other directors, to give notice, both to Government and the stockholders, of any violation of the charter committed or threatened.

The Secretary of the Treasury has thought proper to observe that the measures of the committee of exchange are, as it appears, designedly, and by system, so arranged as to conceal from the officers of the Government transactions in which the public are deeply involved. This, it must be admitted, is a very serious charge. It imputes a corrupt motive. The committee have sought for the foundation, either in evidence or argument, on which this charge rests. They have found neither. They find only the charge, in the first place; and then they find the charge immediately stated as a fact, and relied on as the basis of other charges.

The second reason specially reported by the Secretary as arising from the conduct of the bank, respects the bill of exchange drawn by the Secretary of the Treasury on the Government of France, and purchased by the bank.

The general facts connected with this case, are these:

By the late treaty of indemnity between the United States and France, it was stipulated that the French Government should pay to that of the United States twenty-five millions of francs, to be distributed among those American citizens who had claims against France for the unlawful seizure, capture, and condemnation of their vessels and property; the whole sum to be paid in annual instalments of four millions one hundred and sixty-six thousand six hundred and sixty-six francs each, into the hands of such persons as shall be authorized by the Government of the United States to receive it—the first instalment to be paid at the expiration of one year next following the exchange of the ratification.

On the expiration of the year, the Secretary drew a bill of exchange, signed by himself as Secretary, on the French Government for the amount of this instalment, and sold it to the bank, like any other bill of exchange, and received the proceeds by credit of the amount to the account of the Tresurer in the bank.

On presentment of this bill at the French Treasury payment was refused; the bill was accordingly duly protested, and it was taken up by a third person for account of the bank. The damages accruing on this bill, according to law and to constant usage in such cases, are one hundred and fifty-eight thousand dollars.

If this bill had been transferred by the bank, as probably it was, the bank itself would have been answerable for damages even at a higher rate, if a third person had not taken up the bill for the honor of the bank.

On receiving information of the protest of the bill, the officers of the bank, as was their duty, gave immediate notice to the Treasury Department, and accompanied that notice with the information, always given in such cases, that the drawers of the bill would be held answerable for the damages. Such is the substance of the facts in this case.

The bank, it would appear, was willing to collect the bill on account of Government, and to credit the Treasury with the proceeds when received; a course of proceeding which had this to recommend it, that the money to be received on the bill was to be received by the Government simply in trust for claimants under the French treaty, and was not ultimately destined to the ordinary uses of the Treasury. On the contrary, indeed before the dishonor of the bill was known, it had been made, already, the legal duty of the Secretary to place the fund, so soon as received, at interest for the benefit of the claimants.

But it was thought best to sell the bill, and to realize at once its amount into the Treasury; and the bill was sold to the bank in preference to others offering to purchase, for no reason, it is to be presumed, except that the terms of the bank were more satisfactory. The bill was thus purchased by the bank, and its proceeds credited to the Treasury. This was a mere transaction of the purchase and sale of a bill of exchange. There was no trust confided to the bank, and no fiscal agency in the whole matter. Indeed the agency of the bank had been declined, the Secretary preferring to deal with it not as an agent, but as a purchaser, proposing to it not to collect the bill, but to buy it. On being remitted to Europe, and presented for payment, the bill was protested. By the universal commercial law, the Government, on the occurrence of this protest, became amenable to the bank for the amount of the bill, with damages. These damages may be ultimately claimed, with justice, from the French Government, if the bill was drawn upon sufficient grounds, and on proper authority; in other words, if the obligation of the French Government was such that it was bound to accept and pay the bill; but unless there be something in the case to vary the general rule, which the committee do not perceive, these damages were part of the debt which had become due to the bank, as much as the principal sum of the bill. If this be so, how could the directors relinquish this part of the debt any more than the other? They are agents for the corporation; they act as trustees, and have no authority, without consideration, to release, either to the Government or to individuals, debts due, or properly belonging to the corporation.

It has been suggested that the bank should have taken up this bill, when protested, on Government account. Two answers may be given to this suggestion: the first is, that the bill had been taken up by a correspondent abroad for account of the bank, before it was known in the United States that it had been protested. The second is, that it would have been unlawful for the bank to have advanced such amount to the Government, or on account of Government, for the purpose of taking up this bill, or for any other purpose, without an act of Congress. The express words of the charter forbid it.

But, as a reason for removing the deposites, it appears to the committee quite immaterial whether the bank be right or wrong in claiming these damages. If wrong, it will not recover them. It is not judge of its own rights; and if the appropriate tribunals shall decide that the bank was acting on this occasion, or ought to have acted, as the agent of Government, or that it was its duty to take up the bill on account of Government, then the dam-

ages will not be awarded to it. And in the worst aspect of this case, how can its conduct, in this respect, be any possible reason to justify the removal of the deposites? What connexion has this occurrence with the safe keeping of the public treasures, or with the remitting them from place to place, to meet the convenience of Government, according to the duty of the bank under the charter? The bank thinks itself entitled to damages on a protested bill purchased and held by itself, and drawn by Government. The Secretary of the Treasury thinks otherwise. If there be no reason to doubt the sincerity of the Secretary's conviction, there is as little to doubt the sincerity of that entertained by the bank; and it is quite inconceivable to the committee that the pendancy of such a difference of opinion, on such a question, should furnish any reason whatever for withdrawing the deposites, unless it be at once admitted that the Secretary holds the power of removal as a perfectly arbitrary power, and may exercise it, by way of punishment, whenever, in any particular, the conduct or the opinions of the bank do not conform to his pleasure.

The Secretary does not argue this matter. He offers no reason in opposition to the legal right of the bank to the damages claimed. Indeed, he hardly denies the right. He commences his observations on the subject by saying that the ruling principle of the bank is its own interest; and closes them with another declaration, that, as fiscal agent of the public, it availed itself of the disappointment of its principal for the purpose of enlarging its own profits.

Assertions like these, however else they may be disposed of, cannot be made subjects of argument.

The last charge preferred against the bank, is, that it has used its means with a view to obtain political power, and thereby secure the renewal of its charter.

The very statement of such a charge, as a reason for removing the deposites, is calculated to excite distrust in the wisdom and propriety of that measure; because the charge, too general to be proved, is too general, also, to be disproved; and since it must always rest mainly on mere opinion, it might be made at any time, by any Secretary, against any bank. It would be, therefore, always a convenient cloak under which to disguise the true motives of official conduct.

If proof be made out that the funds of the bank have been applied to illegal objects, the proper mode of redress and punishment should have been adopted; but what has this to do with the deposites? As in the case of the French bill, the Secretary cannot justify the removal of the deposites on any such ground as this, unless it be conceded that he may use the power of removal as a punishment for any offence, of any kind, which the bank, in his opinion, may have committed. The committee have already expressed the opinion that no such latitude of power belongs to him; and the assertion of such a power, for such a cause as is now under consideration, shows that the power ought never to belong to any Secretary; because the offence, on account of which it is here proposed to be exercised, is a political offence, incapable of definition, depending merely on the Secretary's opinion, and necessarily drawing into its consideration all the exciting controverted topics of the day. The bank, it is said, "has sought to obtain political power." What is the definition of such an offence as this? What acts constitute it? How is it to be tried? Who is to be the judge? What punishment shall follow conviction? All must see that charges of this nature are but loose

and vague accusations, which may be made at any time, and can never be either proved or disproved; and to admit them as sufficient grounds to justify the removal of the deposites, would be to concede to the Secretary the possession of a power purely arbitrary.

The main fact relied on for this cause of removal shows how extremely unsafe all proceedings on any such reasons must be. That main fact is, that, between December, 1830, and December, 1831, the bank extended its loans twenty millions of dollars; and it is further alleged that, as if to leave no doubt of the motive of this extraordinary conduct, it continued to add rapidly to its loans, until in May, 1832, while its petition for renewal was pending, those loans amounted to seventy millions. And the Secretary declares that this extraordinary increase of loans made in so short a space of time, and on the eve of a contested election in which the bank took an open and direct interest, demonstrates that it was using its money to obtain a hold upon the people of the country, to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. This is strong assertion, but, so far as the committee perceive, it is assertion merely. It is but the Secretary's own inference from facts, from which very facts his predecessors in office have drawn no such conclusions.

This great extension of the loans, be it remembered, took place in 1831. Why was it not then complained of? How should it have escaped the vigilance of the Secretary of that day, at the time it took place? And, if it did not not escape his vigilance, why did he not remove the deposites? So, also, as to the amount of loans in May, 1832. That amount was perfectly well known at the time, and if it proved any offence, why was not the punishment inflicted then? How should all other Secretaries have slept over this great mischief?

It might further be well asked, what evidence is there of the existence of any such motive as is imputed to the bank in this extension of its loans? There is no evidence, but the mere fact itself of the extension, and it cannot be denied that other and very different reasons for the extension may have existed; so that the charge is proved no otherwise than by inferring a bad motive, from an act lawful in itself, and for which good reasons may have existed?

Nor is it either acknowledged, nor, so far as the committee know, proved that the bank took an open and direct interest, as a corporation, in the election referred to. The bank certainly was much interested in certain accusations which had been brought against it, and which became subjects of public discussion during the pendancy of that election. It had been charged with great misconduct and gross violation of its charter. These accusations must undoubtedly have called on the directors for answer. If made before Congress, they were to answer before Congress; if made judicially, they were to answer in the courts; if made in an official and formal manner, and in that manner submitted to the judgment of the country, the directors were bound to meet them before that country by every fair use of fact and argument, not only for the purpose of defending themselves as directors, but for the higher purpose of maintaining the credit of the bank, and protecting the property entrusted to their care. If in thus defending the bank before the community, the directors carried their measures beyond this fair object of defence, or if they resorted to dishonorable or indecorous modes of discussion; if they sought rather to inflame than to reason; if they submitted personal crimination for argument; if, even, they met in-

vective and violence with corresponding invective and violence; they followed bad examples, and are not to be justified. But on their right to defend themselves before the public against grave charges brought against them, and urged before the public, the committee entertain no doubt; and they are equally clear in opinion that the Secretary of the Treasury is not constituted the judge of the mode of exercising this right, and cannot justly remove the deposites merely because the conduct of the bank, in this particular, has not happened to conform to his wishes.

The committee, therefore, consider this last reason of the Secretary equally insufficient with the rest; and they regard it as the most objectionable of all in its principle, inasmuch as it proceeds on grounds which, if admitted, would leave a very high official duty to be exercised from considerations connected with the political feelings and party contests of every day, with no guide but the individual opinion of the officer who is to perform the act; an opinion which, it is possible, may itself be no less tinctured with political motive and feeling than the conduct which it would reprehend.

If an unlimited power be conceded to the Secretary to inflict penalties on the bank for supposed political motives, in acts legal in themselves, where is the security that the judge may not be found acting under the same impulses which he imputes to the party accused?

The committee entertain no doubt that the immediate cause of the existing public distress is to be found in the removal of the public deposites, and in the manner in which that removal has been made. No other adequate cause has been suggested; and those who justify the removal do not so much deny this to have been the cause, as insist that it was not necessary that any such effect should have followed from it. In other words, they argue that, notwithstanding the removal, the bank still possessed the power, if it had chosen to exercise it, of warding off the blow which has fallen on the country, or at least of mitigating its severity.

Nothing could have been rationally expected but that the bank, deprived of the deposites, and denounced by the Executive Government, would feel itself called on to take just care of its own interest and its own credit. Of the means necessary to the attainment of these ends, the directors alone were judges, and the committee have no evidence before them to show that they have not exercised their judgment fairly, and with a real solicitude to accommodate the commercial community, in the altered state of things, as far as has been practicable consistently with the security of the institution which it is equally their duty to the public and the stockholders to maintain. They are certainly under every obligation of duty, in the present distressed state of the country, to do every thing for the public relief which is consistent with the safety of the bank, and with those considerations which the approaching expiration of its charter makes it important for the directors to regard.

The removal itself, and the manner of effecting it, are causes entirely sufficient, in the judgment of the committee, to produce all the consequences which the country has experienced, and is experiencing; and these consequences, they think, are to be referred to those causes as their just origin. How could any other result have been expected? The amount of the deposites was nine millions of dollars. On this amount in deposite there was sustained, no doubt, a discount of far greater magnitude. The withdrawal of this sum of nine millions from the bank necessarily compelled it to diminish its discounts to the full extent of all that part which may be

supposed to have been sustained by it. It is to be remembered, too, that this was done at a moment when business of every kind was pressed with great activity, and all the means of the country fully employed.

The withdrawing of so large an amount at such a time, from hands actually holding and using it, could not but produce derangement and pressure, even if it had been immediately placed in other banks, and if no unfriendly feeling, and no want of confidence, had attended the transaction. But it is quite obvious that the operation to which the Secretary has resorted has been attended with both these additional and powerful causes of derangement. It has created unfriendly feelings, and it has diminished confidence. This change of the deposites is made on the strength of charges against the bank of a very grave and aggravated nature; such as, if true, would most seriously affect its credit for solvency and stability. It is proclaimed to the whole world as having converted itself into a political partisan, misapplied its funds, neglected its highest duties, and entered on a career of electioneering against the Government of the country.

These serious charges necessarily put the bank on its defence, and the extraordinary spectacle is exhibited of a warfare by the National Government on the National Bank, notwithstanding that the Government is itself a great proprietor in the bank, and notwithstanding that the notes of the bank are the currency in which the revenues of country are by law receivable.

The true and natural relation between the Government and the bank is altogether reversed. Instead of enjoying the confidence of the Government, it is obliged to sustain its most serious official assaults, and to maintain itself against its denunciations. The banks selected by Government as its agents are themselves thrown, perhaps unwillingly, into an attitude of jealousy and suspicion with the Bank of the United States. They become cautious and fearful, therefore, in all their proceedings; and thus those who should co-operate to relieve the public pressure, are considering mainly their own safety. Fearful of each other, and fearful of the Government, they see the distress continue, with no power of beneficial interposition.

It may be asked, why are not these deposite banks able to maintain as large a circulation on the nine millions of deposites as the Bank of the United States? And will they not be thus able when the present panic shall have subsided? The committee think both these questions easily answered.

The Bank of the United States has a credit more general, it may be said, more universal, than any State bank does possess. The credit of the Bank of the United States is equally solid, its bills and notes received with equal confidence, for the purpose of circulation and remittance, in every quarter of the country. No paper circulation, so far as the committee know, which ever appeared in the world, has approached nearer to the value and uniformity of a specie currency than the notes and bills of the Bank of the United States. To the State banks these notes and bills have performed the office of specie. All the State banks have discounted, upon the possession of them, with the same freedom and boldness as they would have done on an equal amount of the precious metals. The curtailment of their circulation, therefore, is not merely a withdrawing of the amount curtailed from the general mass of circulation—it is removing, rather, to the amount curtailed, the basis of the general circulation; and although the actual amount of notes and bills has not been recently greatly diminished, there is reason to suppose that the amount held by State banks has been greatly diminished.

The removal of the deposites has operated directly on the amount of the

circulating medium, at a moment when that amount could not bear any considerable reduction, suddenly made, without producing sensible effect. It has diminished prices, and, in some instances, it has had this effect to a very material degree. It has operated on the internal exchange, and has, most manifestly, been attended with very serious and heavy inconveniencies in that important branch of the national interest. More than all, it has acted on opioion; it has disturbed the general confidence; it has weakened the public faith in the soundness of the currency, and it has alarmed men for the security of property. As yet, we hardly know it effects on the credit of the country in Europe. Perhaps it is not easy to anticipate those effects; but if causes which operate here, should be found to have been efficient there also, a still greater degree of pressure and distress than has yet been felt may be expected.

The committee, therefore, cannot but regard the removal of the deposites, on the whole, as a measure highly inexpedient, and altogether unjustifiable. The public moneys were safe in the bank. This is admitted. All the duties of the bank connected with these public moneys were faithfully discharged. This, too, is admitted. The subject had been recently before the House of Representatives, and that House had made its opinion against the removal known by a very unequivocal vote. Another session of Congress was close at hand, when the whole matter would again come before it. Under these circumstances, to make the removal, with the certainty of creating so much alarm, and of producing so much positive evil and suffering, such derangement of the currency, such pressure and distress in all the branches of the business of private life, is an act which the committee think the Senate is called on to disapprove.

The reasons which have thus been stated, apply to the whole proceedings of the Secretary relating to the public deposites, and make it unnecessary to consider whether there be any difference between his power over moneys already in the bank, and his power to suspend future deposites. The committee forbear, also, to consider the propriety of the measures adopted by the Secretary for the safe-keeping of the public money since their withdrawal from the bank. They forbear, too, from entering into any discussion, at present, of the course of legislation proper to be adopted by Congress under the existing state of things. In this report, they have confined their consideration to the removal of the deposites, the reasons assigned for it, and its immediate consequences; and on these points they have formed the opinions which have now been expressed.

They recommend to the Senate the adoption of the resolution which has been referred to them.